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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,914	10/22/2003	Benedikt Sas	4532680/6100 (KEM 81)	6909
26386	7590	10/19/2004	EXAMINER	
DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C. THE FINANCIAL CENTER 666 WALNUT STREET SUITE 2500 DES MOINES, IA 50309-3993			DENTZ, BERNARD I	
			ART UNIT	PAPER NUMBER
			1625	
DATE MAILED: 10/19/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,914

Applicant(s)

SAS ET AL.

Examiner

Bernard Dentz

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-8 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8, drawn to compounds wherein X in the ring containing 1 hetero atom is O and all other X's are O, classified in class 549, subclass 396.
- II. Claims 1 and 3-8, drawn to compounds where X in the ring containing 1 hetero atom is O and at least 1 of the other X's is other than O, classified in class 548, subclass 303.1 e.g.
- III. Claims 1 and 3-8, drawn to compounds where X in the ring containing 1 hetero atom is N and the other X's are N, classified in class 544, subclass 280.
- IV. Claims 1 and 3-8, drawn to compounds where X in the ring containing 1 hetero atom is N and at least 1 other X is other than N, classified in class 544, subclass 48 e.g.
- V. Claims 1 and 3-8, drawn to compounds where X in the ring containing 1 hetero atom is S and the other X's are S, classified in class 549, subclass 23.
- VI. Claims 1 and 3-8, drawn to compounds where X in the ring containing 1 hetero atom is S and at least 1 other X is other than S, classified in class 548, subclass 153.

The inventions are distinct, each from the other because: The compounds of Group I are made from the common cyclic sugars which contain a 6 membered ring with 1 O atom. The compounds of group II include those having one or more OH groups attached to the above mentioned ring converted to an N or S containing group. The

other 4 Groups in which the above mentioned ring O is converted to a N or S atom would require more complicated synthetic methods and would be expected to have completely different properties.

Thus because of the above and because the searches are different the above restriction is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicants should also elect a single disclosed species in case no generic claim is found to be allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernard Dentz whose telephone number is 571-272-0683. The examiner can normally be reached on Mon-Fri from 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang, can be reached on 571 272-0562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dentz

10-8-2004



FERNAND DENTZ
PRIMARY EXAMINER
GROUP 1600